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August 16, 2022

File No. 36630.260

VIA ECF

Honorable Judge Taryn A. Merkl
United States District Court
Eastern District of New York
225 Cadman Plaza East, Brooklyn, NY

Re: Ruben Pena v. Home Depot U.S.A., Inc.
USDC/EDNY Docket No.: 22-CV-3547

Dear Honorable Justice Merkl :

Our firm represents Defendant Home Depot U.S.A., Inc. in the above-referenced matter. Please accept this letter in response to Plaintiff's correspondence to the court dated August 15, 2022 regarding his request for an adjournment of the initial conference and status of discovery.

Plaintiff represented in his correspondence that "all documentary and other pretrial discovery have been completed with the only things outstanding being depositions and Defendant's physical exam of Plaintiff." While Plaintiff is accurate in that the parties have exchanged preliminary discovery when this matter was venued in Kings County Supreme Court, there is still substantial discovery that remains outstanding from the plaintiff. In particular, the plaintiff still needs to respond to the defendant's federal discovery demands, exchange Rule 26 Initial Disclosures, as well as provide Defendant with medical authorizations that have been requested since the last court conference on this matter. Once this discovery is provided, the parties will be able to schedule depositions and designate expert IMEs. Due to Plaintiff's inability to retain counsel admitted in federal court, discovery in this matter has been at a standstill.

We thank Your Honor for your attention to this matter.

Respectfully,

A handwritten signature in black ink that reads 'Steven Montgomery' in a cursive script.

Steven R. Montgomery of
LEWIS BRISBOIS BISGAARD & SMITH LLP

SRM:ng